REMARKS

Initially, Applicant expresses appreciation to the Examiner for the courtesies extended in the recent in-person interview held with Applicant's representative. The amendments and remarks presented herein are consistent with the discussion during that interview. Accordingly, entry of the above amendments and reconsideration of the pending claims is respectfully requested.

The Office Action, mailed February 5, 2007, considered and rejected claims 1, 3-12, 15-21, 23-25, 27-31, 33-37 and 39-42.[1] In particular, each of the pending claims was rejected under 35 U.S.C. § 103(a) as being unpatentable over *McAndrew* (U.S. Patent No. 5,517,405), in view of *Joao* (U.S. Patent No. 6,283,761), *Lee* (U.S. Patent No. 6,442,432) and *PR Newswire* ("Lifechart.com Takes Next Step to Monitoring Health Online: First E-Health Company of its Kind to Expand Services with Wireless Applications."

By this paper, claims 1, 12 and 24 have been amended, no claims have been cancelled, and no claims added.[2] Accordingly, following this paper, claims 1, 3-12, 15-21, 23-25, 27-31, 33-37 and 39-42 remain pending, of which claims 1, 12, 23 and 24 are the only independent claims at issue.

As discussed during the interview, Applicant's claims are generally directed to embodiments for delivering decision-supported medical and patient data to a clinician. As recited in claim 1, for example, a method is disclosed for delivering decision-supported patient data to a mobile user in a controlled and repeatable manner. In particular, the method includes, upon identifying a patient the clinician will treat during a time period and for which the clinician will receive decision-supported patient data to assist in the medical care of the patient, accessing patient data for the patent from a patient storage module. Updateable rules are also accessed from a medical knowledge module, as are parameters usable for diagnosing medical conditions of the patient. Decision-supported patient data is then generated for the patient by evaluating, at the decision-support module remote from the mobile user module, the accessed patient data and

[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

[2] The claim amendments have been made, as suggested during the interview with the Examiner, are merely semantic, but were indicated by the Examiner as preferred for clarifying the active elements of the claims. Accordingly, the new claims add no new matter, and are of generally the same scope as previously presented before the Office.

any newly collected patient data using the accessed updateable rules and parameters. The decision-supported patient data is generated to include potential medical conditions of the patient and recommendations for medical care of the patient. The decision-supported patient data is then transferred to the mobile user module and presented in a configuration to assist treatment of the patient, where the configuration is either a default configuration associated with the mobile user module, or customized by the clinician.

Independent claim 12 recites a computer program product generally corresponding to the method of claim 1. Independent claim 23 recites a method generally corresponding to the method of claim 1, and independent claim 24 recites a system having a decision support module and user module which collectively are configured in a manner generally corresponding to the method of claim 1.

As is axiomatic, a consideration and determination of obviousness is governed by four factual inquiries as set forth in *Graham v. John Deere Co.* In particular, the four factual inquiries are:

(A) Determining the scope and contents of the prior art;

(B) Ascertaining the differences between the prior art and the claims at issue;

(C) Resolving the level of ordinary skill in the pertinent art; and

(D) Evaluating evidence of secondary considerations.

Moreover, as set forth in the M.P.E.P. and in recent memorandum at the Office, consideration of these four factual inquiries requires that a *prima facie* case of obviousness be factually supported by the Office by providing:

(A) References which teach or suggest all the claim limitations;

(B) A reasonable expectation of success if the references are combined; and

(C) An explicit recitation of a reason that would have prompted a person of ordinary skill in the relevant field to combine the prior art elements.

(*See* M.P.E.P. §§ 2142, 2143, Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations to Technology Center Directors, "Supreme Court decision on *KSR Int'l. Co. v. Teleflex, Inc.*" dated May 3, 2007).

As also discussed during the interview, while the cited references generally relate to collecting data for use by clinicians in treating patients, the cited references, whether alone or in combination, fail to disclose or suggest each and every element of the claimed invention.

Accordingly, for at least this reason, a *prima facie* case of obviousness has not been met. For instance, and by way of example and not limitation, the cited references fail to disclose or suggest wherein the configuration of decision-supported patient data presented at a mobile module is selected from a default configuration for the mobile user module or from a customized configuration selected by the clinician, as recited in combination with the other claim elements.

For example, *McAndrew* generally relates to a problem solving expert system in which a description of a medical condition and proposed solution are entered into a user interface. (*Abstract*; Col. 3, ll. 5-15, 36-42; Col. 4, ll. 46-51). Using this information, a topical library is searched to identify other information relevant to the problem and a proposed solution. (*Abstract*; Col. 3, ll. 42-45; Col. 4, ll. 51-56). The relevant information, including a possible recommended treatment is obtained and displayed to the user for approval. (Col. 9, ln. 63 to Col. 10, ln. 6).

Joao discloses an apparatus and method for processing healthcare information, in which a processor processes symptom and/or condition information for a patient. (*Abstract*). In particular, the processor processes the information in relation to healthcare information, theories, principles and research, and generates a diagnostic report containing possible diagnoses for symptom and condition information. (*Id.*). A transmitter then transmits the diagnostic report to a computer and a communication device of a healthcare provider. (*Id.*) The healthcare provider selects a final diagnosis which is transmitted to a receiver associated with the processor, and a claim form is generated to submit to an insurer. (*Id.*).

PR Newswire is generally directed to a system that provides patients an interactive, low-cost mechanism for communicating with healthcare professionals via the Internet, wireless technology, fax, or mail. (p. 2, ¶ 4). In the system, an online health service is provided in which WAP-ready mobile phones can access and monitor health online, from any location, at any time of day, whether or not they have a computer. (p. 2, ¶ 1). Thus, a consumer having a WAP-enabled phone can consult with a clinician who is located remotely. (p. 2, ¶ 5). For example, a patient may measure his or her lung function on a handheld monitor and upload the data onto the Internet. (*Id.*). With web access, a healthcare professional can then monitor the patient's clinical progress, prescribe or modify medication, or schedule office visits. (*Id.*)

Accordingly, *McAndrew, Joao* and *PR Newswire* each disclose information being transferred between devices. However, as discussed during the interview, none of these

references discloses or suggests transferring generated decision-supported patient data to a mobile user module such that the clinician is presented with the generated decision-supported patient data in a configuration to assist in treating the patient and which is selected from a default configuration associated with the mobile user module or a customized configuration selected by the clinician. Indeed, the Office has acknowledged that such disclosure is absent from the cited references (*see* Office Action, pp. 4-5) and thus relies on the *Lee* reference for such teaching or suggestion.

Applicant respectfully submits, however, that *Lee* is also deficient in this regard. In particular, *Lee* discloses that implantable medical devices (IMDs) communicate with a remote data center and allow a remote user to view and track status and progress on a display. (Col. 1, ll. 11-28). In particular, the system can include a radio transmitter within the IMD that communicates with a remote data center which dispenses therapy and clinical care on a real-time basis. (Col. 7, ln. 17 to Col. 8, ln. 10). Optionally, an interface medical device can be used to facilitate the connection between the IMD and the central computer, and the interface medical device can be operated by a healthcare provider. (Col. 8, ll. 44-57).

As discussed in the interview, *Lee* thus discloses a system for displaying medical information. *Lee* fails, however, to disclose or suggest that the display format is configured in a default configuration for the mobile user module which presents decision-supported patient information to the clinician, or in a customized configuration selected by the clinician. In short, *Lee* and the other cited references each disclose merely that information is displayed, but fail to disclose that the configuration of the information is either a default configuration based on the mobile module, or a customized configuration selected by the clinician, as claimed in combination with the other claim elements.

Accordingly, when combined, the references disclose and suggest that information is presented to the user, but fail to disclose the specific configuration for formatting as recited in the claims. Thus, if combinable at all, the suggestion to one of ordinary skill in the art would have been merely to provide the data as generated, rather than in a customized configuration selected by a clinician or in a mobile user module specific default configuration. (*See In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871 (CCPA 1981)).

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will

be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney by telephone at (801) 533-9800.

Dated this 7th day of May, 2007.

Respectfully submitted,

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